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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Hoi-Sing Kwok :
Application No. 10/815,673 :
Filed: April 2, 2004 : ON PETITION
Title of Invention: :
PROJECTOR WITH FLAT :
LIGHT SOURCES :

This is a decision on the correspondence filed January 11, 2006, in response to a Decision dismissing a petition filed December 6, 2005. The correspondence is properly treated as a renewed petition to expunge assignment records.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

Applicant filed a petition on December 6, 2006 to expunge an assignment to a company that does not exist. Applicant avers that none of the procedures set forth in the Manual of Patent Examining Procedure ("MPEP") 323.01(a) through 323.01(c) are applicable here where a legal transfer of rights was not possible, and therefore will not provide adequate relief.

Applicable Law, Rules and MPEP

The MPEP 323.01(d), Expungement of Assignment Records, provides that

Petitions to correct, modify or "expunge" assignment records are rarely granted. Such petitions are granted only if the petitioner can prove that:

(A) the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief; and

(B) the integrity of the assignment records will not be affected by granting the petition.

Even if a petition to "expunge" a document is granted with respect to a particular application or patent, the image of the recorded document will remain in the records of the Assignment Services Division at the same reel and frame number, and the image will appear when someone views that reel and frame number. The Office will, however, delete the links to the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the Assignment Historical Database.

In this instance petition asserts that none of the procedures set forth in the Manual of Patent Examining Procedure ("MPEP") 323.01(a) through 323.01(c) are applicable here because a legal transfer of rights was not possible.

Analysis

The procedures set forth in § 323.01(c) provide a method whereby an owner may correct an improperly recorded assignment or name change.

In this instance, Applicant asserts that correction of the assignment record in accordance with 323.01(c) will not provide adequate relief because a legal transfer of rights was not possible.

This Office fails to understand the relationship between whether a legal transfer of rights actually occurred and correction of erroneous information in the assignment record. In an analogous instance, where another party has improperly recorded an

assignment or name change against the owner' s application or patent, no legal transfer of rights occurs.

Here, the recorded assignment was to a company that does not exist. As such, no legal transfer of rights occurred and the assignment contained erroneous information and was improperly recorded. As previously noted, the procedures set forth in § 323.01(c) provide a method whereby an owner may correct an improperly recorded assignment or name change.

The MPEP § 323 provides:

Office policy regarding recordation of assignment documents is directed toward maintaining a complete history of claimed interests in property and, therefore, recorded assignment documents will not be expunged even if subsequently found to be invalid. See In re Ratny, 24 USPQ2d 1713 (Comm'r Pat. 1992). Once a document is recorded with the Assignment Services Division, the Assignment Services Division will not remove the papers from the record relating to that application or patent. See MPEP § 323.01(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
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By FAX: (703) 872-9306
Attn: Office of Petitions

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Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.


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Office of Petitions